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January 28, 2002

Mary L. Cottrell, Secretary
Department of Telecommunications & Energy
One South Station, 2nd Floor
Boston, Massachusetts 02110

Re: Cambridge Electric Light Company
D.T.E. 01-94

Dear Madam Secretary:

Enclosed for filing pleas find the Motion of Cambridge Electric Light Company For A Protective Order. If there are any questions in this matter, please contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "John Cope-Flanagan". The signature is fluid and cursive, with the first name "John" being particularly prominent.

John Cope-Flanagan

Enclosure

cc: Jesse S. Reyes, Hearing Officer (2)
Esat Serhat Guney, Analyst, Electric Power Division
Joseph Tiernan, Analyst, Electric Power Division
Miguel Maravi, Analyst, Rates and Revenue Requirements Division
David S. Rosenzweig, Esq.
Service List

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Cambridge Electric Light Company

D.T.E. 01-94

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing Motion of Cambridge Electric Light Company For A Protective Order in accordance with Department rules.



John Cope-Flanagan

Attorney for
NSTAR Electric & Gas Corporation
800 Boylston St., Floor 17
Boston, MA 02199

DATED: January 28, 2002

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Cambridge Electric Light Company)
_____))
_____)

D.T.E. 01-94

**MOTION OF CAMBRIDGE ELECTRIC LIGHT COMPANY FOR A
PROTECTIVE ORDER**

I. INTRODUCTION

On November 2, 2001, Cambridge Electric Light Company ("Cambridge") filed with the Department of Telecommunications and Energy (the "Department") a Petition for Approval of a 2001 Amendatory Agreement between Cambridge and the Vermont Yankee Nuclear Power Corporation ("Vermont Yankee"), docketed by the Department as D.T.E. 01-94 (the "Petition"). The Petition seeks Department approval of a 2001 Amendatory Agreement between Cambridge and Vermont Yankee relating to power contracts which include amendments to the existing power contract obligations between Cambridge and Vermont Yankee. The 2001 Amendatory Agreement is associated with the proposed sale by Vermont Yankee of its nuclear power station (the "Station") to Entergy Nuclear Vermont LLC and Entergy Corporation (together, "Entergy").

On January 11, 2002, the Office of the Attorney General (the "Attorney General") submitted information requests to Cambridge regarding, inter alia, the specific nature of the bidding and auction process relating to the sale of the Station. For the reasons set forth below, Cambridge requests that the Department issue a protective order to limit

disclosure of the requested proprietary, confidential and highly sensitive competitive information to the Attorney General and the Department only.¹

II. LEGAL STANDARD

Confidential information may be protected from public disclosure in accordance with G.L. c. 25, § 5D, which states in part that:

The [D]epartment may protect from public disclosure, trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be on the proponent of such protection to prove the need for such protection. Where the need has been found to exist, the [D]epartment shall protect only so much of the information as is necessary to meet such need.

In interpreting the statute, the Department has held that:

... [T]he burden on the company is to establish the need for protection of the information cited by the company. In determining the existence and extent of such need, the Department must consider the presumption in favor of disclosure and the specific reasons why disclosure of the disputed information benefits the public interest.

The Berkshire Gas Company et al., D.P.U. 93-187/188/189/190, at 16 (1994) as cited in Hearing Officers Ruling On the Motion of Boston Gas Company for Confidentiality, D.P.U. 96-50, at 4 (1996).

In practice, the Department has often exercised its authority to protect sensitive market information. For example, the Department has determined specifically that competitively sensitive information, such as price terms, is subject to protective status:

The Department will continue to accord protective status when the proponent carries its burden of proof by indicating the manner in which

¹ Cambridge and the Attorney General have executed a Non-Disclosure Agreement (see Attachment A, hereto) whereby Cambridge will disclose competitively sensitive information to the Attorney General, subject to the Attorney General limiting review and distribution of the information to his staff and technical consultants, as noted in the Non-Disclosure Agreement.

the price term is competitively sensitive. Proponents generally will face a more difficult task of overcoming the statutory presumption against the disclosure of other terms, such as the identity of the customer.

Standard of Review for Electric Contracts, D.P.U. 96-39, at 2, Letter Order (August 30, 1996). See also Colonial Gas Company, D.P.U. 96-18, at 4 (1996) (the Department determined that price terms were protected in gas supply contracts and allowed Colonial Gas Company's request to protect pricing information including all "reservation fees or charges, demand charges, commodity charges and other pricing information").

Moreover, the Department has recognized that competitively sensitive terms in a competitive market should be protected and that such protection is desirable as a matter of public policy:

The Department recognizes that the replacement gas purchases . . . are being made in a substantially competitive market with a wide field of potential suppliers. This competitive market should allow LDC's to obtain lower gas prices for the benefit of their ratepayers. Clearly the Department should ensure that its review process does not undermine the LDC's efforts to negotiate low cost flexible supply contracts for their systems. The Department also recognizes that a policy of affording contract confidentiality may add value to contracts and provide benefits to ultimate consumers of gas, the LDC's ratepayers, and therefore may be desirable for policy reasons.

The Berkshire Gas Company et al., D.P.U 93-187/188/189/190, at 20 (1994).

III. THE INFORMATION REQUESTED BY THE ATTORNEY GENERAL IS PROPRIETARY, CONFIDENTIAL AND HIGHLY SENSITIVE AND WARRANTS PROTECTION FROM DISCLOSURE

Cambridge is requesting confidential treatment of specific information relating to the auction process and procedures, the bids received and related documentation because the information is proprietary, confidential and highly competitively sensitive. Overall, Cambridge is seeking protection for those responses to information requests that relate

directly to the auction of the Station, the bidders or material facts relating to their bids, i.e., AG-1-3, AG-1-4, AG-1-11, AG-1-12, AG-1-18, AG-1-20, AG-1-25, AG-1-26, and AG-1-27. The disclosure of this sensitive information, as requested by the Attorney General, would be damaging to the auction process, Cambridge and its customers for the following reasons:

1. Vermont Yankee and JPMorgan, the auctioneer for the Station, have treated the number and names of bidders, communications with the bidders and bid information and analysis (the "Auction Information") as confidential throughout the auction process in Vermont. The Auction Information has been tightly controlled and has not been distributed outside of JP Morgan, or to the extent applicable, outside the management, counsel, Sale Committee, Sale Committee staff or Board of Directors of Vermont Yankee. All communications between the bidders and Vermont Yankee were facilitated through or supervised by JPMorgan. The final bids were kept in locked files and the final bid analysis was maintained under password-protected electronic files. All bidders were told that the auction process would be conducted in a highly confidential manner. The process was designed this way to encourage participation, promote competition in the bidding process, and maximize the proceeds from the bidding. Any disclosure now could significantly damage Vermont Yankee's ongoing divestiture efforts. The Department should not allow Vermont Yankee's divestiture to be compromised by unnecessary disclosure of bid information.

2. As a bidder in the process, Entergy has agreed to be bound by a confidentiality agreement signed with JPMorgan as agent for Vermont Yankee. Entergy does not know, and should not know, the details of the auction process in Vermont. If Entergy were to learn that information surrounding the competitiveness of the auction process differs from its original expectation, there is a risk that Entergy might be motivated to cause termination of the transaction documents, including the 2001 Amendatory Agreement.
3. If Auction Information is disclosed, the effectiveness and competitiveness of auctions for nuclear and other assets in New England will be substantially harmed. Indeed, Vermont Yankee may be required to commence the auction process again, if the asset transfer is not consummated for some unanticipated reason. In this case, the bids submitted in Vermont Yankee's auction, if released, may make bidders more reluctant to submit responses in any subsequent auction. Thus, the release of bid information at this time would potentially prejudice any future auction process and ultimately harm Cambridge's customers, to the extent that a future auction process fails to yield an amendatory agreement or yields an amendatory agreement with less favorable terms than provided in the 2001 Amendatory Agreement under review in this proceeding.

For the reasons noted above, the release of proprietary, confidential and highly sensitive auction information would cause considerable harm to the auction process, raise

uncertainties regarding future auctions and significantly limit the benefits of future competitive auctions as a mechanism to mitigate transition costs to customers in Massachusetts. Cambridge is concerned that any disclosure would seriously undermine the ability of generation owners to protect the confidential nature of their auctions and would discourage participation by bidders in future auctions, to the detriment of Cambridge's customers.

IV. CONCLUSION

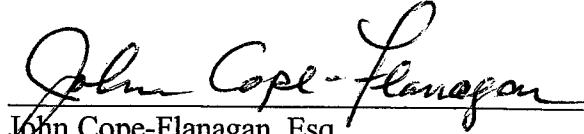
Cambridge respectfully requests leave to respond, under seal, to the Attorney General's information requests AG-1-3, AG-1-4, AG-1-11, AG-1-12, AG-1-18, AG-1-20, AG-1-25, AG-1-26, and AG-1-27 pursuant to a confidentiality agreement (see Attachment A, appended). This approach will allow the Department and the Attorney General to review the auction process and provide a mechanism to ensure that proprietary, confidential and highly sensitive auction information will remain confidential.

WHEREFORE, for the reasons set forth herein, Cambridge respectfully requests that the Department allow Cambridge's Motion for a Protective Order.

Respectfully submitted,

CAMBRIDGE ELECTRIC LIGHT COMPANY

By Its Attorneys,



John Cope-Flanagan, Esq.

NSTAR Electric Corporation

800 Boylston Street

Boston, MA 02199

(617) 424-2103 (telephone)

(617) 424-2733 (facsimile)

-and-



David S. Rosenzweig, Esq.

John K. Habib, Esq.

Keegan, Werlin & Pabian, LLP

21 Custom House Street

Boston, Massachusetts 02110

(617) 951-1400 (telephone)

(617) 951-1354 (facsimile)

Date: January 28, 2002

ATTACHMENT A
CONFIDENTIALITY AGREEMENT

NONDISCLOSURE AGREEMENT

THIS AGREEMENT between The Cambridge Electric Light Company (the "Company") and THOMAS REILLY, ATTORNEY GENERAL ("Attorney General"), and any of his employees, attorneys, consultants, experts, agents, assigns or successors.

WITNESSETH:

WHEREAS, the parties hereto seek to facilitate the handling of information and documents the Company believes are proprietary or otherwise sensitive and to expedite discovery procedures with regard to DTE 01-94, including, but not limited to, any information and documents from J. P. Morgan.

NOW, THEREFORE, in consideration of the promises exchanged herein, the parties hereto agree as follows:

1. All documents and information furnished subject to the terms of this Agreement shall be referred to as "PROTECTED MATERIALS." PROTECTED MATERIALS shall not include any information or document contained in the public files of the Department or any other federal or state agency. "PROTECTED MATERIALS" also shall not include documents or information which at, or prior to, disclosure in this proceeding, is or was public knowledge, or which becomes public knowledge as a result of publication or disclosure by the Company.
2. The Company may designate as "PROTECTED MATERIALS" those documents or discovery materials or portions thereof produced by it which in good faith it believes contain confidential or proprietary information. Designation shall be accomplished by marking the documents or other discovery materials or portions thereof with the words

"PROTECTED MATERIALS" with docket number reference, if any. Any notes, memoranda, summaries, abstracts, studies, computer software, software documentation or other information derived from such "PROTECTED MATERIALS" or portions thereof, prepared by the Company, the Attorney General or a signatory to the Nondisclosure Agreement and Certificate, shall be similarly marked, and reasonable precautions shall be taken to ensure that any such notes, memoranda, summaries, abstracts, studies, computer software, software documentation or other information are not viewed by any persons except those to whom "PROTECTED MATERIALS" may be disclosed under paragraph 4. The Company shall provide to the Attorney General three copies of all requested "PROTECTED MATERIALS", except for any documents which are voluminous (a document exceeding 200 pages), in which case the Company shall supply at least one copy to the Attorney General.

3. Unless and until otherwise agreed or otherwise ordered by the Department or a court of competent jurisdiction, all documents and other discovery materials or portions thereof that have been designated "PROTECTED MATERIALS", and any notes, memoranda, summaries abstracts, studies, computer software, software documentation or other information derived therefrom, shall be used only in connection with this proceeding, any continuation of this proceeding through recalculation, reconsideration, appeal, remand, or otherwise (such proceedings, appeals, etc. hereinafter referred to as the "Proceeding"), or other Department proceedings involving the Company in accordance with this Agreement and may be inspected by or disclosed to only the persons described in paragraph 4 under the conditions herein established.

4. a. Except as otherwise provided in paragraph 6 below, "PROTECTED MATERIALS" may be disclosed to and used by attorneys of record for the Attorney General

in the Proceeding or other Department proceedings involving the Company or in any appellate proceeding resulting from those proceedings and persons who are regularly employed in such attorneys' offices and engaged in or supervising the conduct of such proceedings in accordance with this Agreement.

b. "PROTECTED MATERIALS" also may be disclosed to and used by the Attorney General's technical experts, consultants, expert witnesses, other witnesses, and persons regularly employed in their respective offices who are involved in the Proceeding or other Department proceedings involving the Company in accordance with this Agreement. Prior to disclosure of such "PROTECTED MATERIALS" to such persons, each such person shall execute a certificate in the form attached hereto stating that he or she has read this Agreement, and that he or she will not divulge or use any "PROTECTED MATERIALS," or any portion thereof, or any information derived therefrom, except in accordance with this Agreement. The attorneys for the Attorney General shall mail each such executed certificate to counsel for the Company. In the event that any person to whom disclosure of "PROTECTED MATERIALS" has been made ceases to be engaged in this proceeding, access to such materials by such person shall be terminated. However, any person who has executed the certificate in the form attached hereto shall continue to be bound by the provisions of this Agreement even if no longer so engaged.

c. Pursuant to this Agreement, copies may be made of documents for marking as exhibits in accordance with paragraph 5 below.

5. a. If the Attorney General tenders for filing with the Department or any court any written testimony, exhibit, brief or other submission that includes, incorporates or otherwise discloses "PROTECTED MATERIALS," all portions thereof disclosing such

materials shall be marked "PROTECTED MATERIALS" and filed and served in sealed envelopes or other appropriate containers endorsed to the effect that they are sealed pursuant to this Agreement.

b. Unless objection to disclosure is waived by counsel for the Company, or the Department otherwise orders, "PROTECTED MATERIALS" or portions thereof may be marked for identification, offered, or introduced into evidence, or otherwise disclosed only in an in camera portion of this proceeding closed to all persons except those listed in paragraph 4. The Hearing Officer shall determine whether or to what extent the "PROTECTED MATERIALS" or portions thereof will remain in camera, will be made public, or will be stricken or excluded from the record. Pending such determination, any submission that is served, offered or introduced in camera shall be subject to the provisions of this Agreement. That portion of the hearing transcript relating to in camera proceedings conducted pursuant to the Agreement shall be sealed and subject to this Agreement, unless otherwise ordered by the Hearing Officer. The Attorney General reserves the right to contest before the Hearing Officer the designation of material as protected, and all parties reserve the right to appeal as provided in paragraph 6(b) the determinations of the Hearing Officer made pursuant to this subparagraph.

6. a. In the event that the Attorney General wishes to disclose "PROTECTED MATERIALS" to any person to whom disclosure is not authorized by this Agreement, or wishes to object to the designation of certain information or material as "PROTECTED MATERIALS," the Attorney General will first make a good faith attempt to discuss the matter with counsel for the Company. The parties will undertake good faith negotiations in order to resolve any disputes as to such disclosures or the validity of the claim to protection. Where

these negotiations produce agreement, the parties will so notify the Department.

b. If the parties fail to reach agreement with respect to the disclosure, or if the Company maintains that the information should continue to be classified as "PROTECTED MATERIALS," the parties shall request that the Hearing Officer review the documents in camera and determine whether they should be protected from disclosure. All parties reserve the right to appeal to the Commission, in accordance with applicable law and regulations, any decision rendered by the Hearing Officer. Should the Commission rule in favor of the Attorney General, the Attorney General agrees to a stay of 5 business days of the Commission's ruling until the Company has had an opportunity to obtain a decision at the earliest practicable time from a court of competent jurisdiction concerning the Commission's ruling.

7. Unless marked as an exhibit in this proceeding or otherwise agreed to by the parties, all "PROTECTED MATERIALS" in the possession of the Attorney General and all copies made thereof shall, to the extent permitted by law, be returned to the Company upon request immediately after termination of the Proceeding, including reconsideration and any related appellate litigation. In addition, unless otherwise agreed by the parties, the Attorney General shall, to the extent permitted by law, destroy any notes, memoranda, and other documents and information derived from "PROTECTED MATERIALS," upon request immediately after termination of the Proceeding, including reconsideration and any related appellate litigation, except those marked as an exhibit in this proceeding, and certify in writing for counsel for the Company that such destruction has been accomplished.

8. Nothing in the foregoing provisions of this Agreement shall be deemed to preclude any person from seeking and obtaining, on an appropriate showing, such additional

protection or relief as may be available under applicable law.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of
January 10, 2002

The Cambridge Electric Light Company,

THOMAS REILLY,
ATTORNEY GENERAL

By: John Cope-Flanagan
Authorized Representative

By: Alexander J. Cochis
Alexander J. Cochis
Assistant Attorney General
Utilities Division
Public Protection Bureau
200 Portland Street
Boston, MA 02114

NONDISCLOSURE AGREEMENT AND CERTIFICATE

I hereby certify my understanding that protected materials are being provided to me pursuant to the terms and restrictions of the Nondisclosure Agreement dated _____ in regards to _____. I also certify that I have been given a copy of that Agreement, have read its terms and conditions, and agree to be bound by them. I understand that the contents of the "PROTECTED MATERIALS," and any notes, memoranda, computer software, software documentation or any other forms of information regarding or derived from the "PROTECTED MATERIALS," shall not be disclosed to anyone other than in accordance with the Agreement and shall be used only for the purpose of the Proceeding or other Department proceedings involving the Company.

I further acknowledge that, in the event that I cease to be engaged in the above-captioned proceedings, I shall continue to be bound by the terms and conditions of this Agreement.

Authorized

Date: